

**Amendment No. 12 to HB0702**

**Turner M**  
**Signature of Sponsor**

**AMEND Senate Bill No. 830**

**House Bill No. 702\***

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-13-104, is amended by deleting subdivision (4) in its entirety and substituting instead:

(4) "Chartering authority" means:

(A) The local board of education;

(B) The achievement school district as defined in § 49-1-614 that approves, renews or decides not to revoke a public charter school application or agreement;

(B) The state board of education, if the state board approves a charter school under § 49-13-141 when an LEA is the sponsor of a charter school; or

(C) The achievement school district upon appeal from a denial of approval of a charter school application by an LEA that contains at least one (1) priority school on the current or last preceding priority school list;

SECTION 2. Tennessee Code Annotated, Section 49-13-104, is amended by adding the following language as a new, appropriately designated subdivision:

( ) "Achievement school district" or "ASD" means the organizational unit of the department of education created in § 49-1-614.

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 13, is amended by adding the following language a new section:

49-13-142.

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(a) The ASD shall:

(1) Review charter school applications, renewals and revocations on appeal from denials by LEAs which contain at least one (1) priority school on the current or last preceding priority school list;

(2) Be the chartering authority for all charter schools whose applications the ASD approves on appeal. In exercising the duties assigned under this chapter, the ASD is an appellate body only and shall not accept an application that has not been submitted to an LEA, except a renewal application from a charter school it has authorized on appeal;

(3) Execute its duties consistent with best practices established by stakeholders, including the National Association of Charter School Authorizers; and

(4) File a report on the overall state of charter schools that it authorizes to the education committees of the senate and the house of representatives by February 1 of each year. The first report shall be filed by February 1, 2017. The report shall include academic performance and operational challenges of its charter schools and recommendations for improving charter schools.

(b) The ASD may apply for grants to support the work of the ASD under this chapter 13.

(c)

(1) Oversight and monitoring of charter schools authorized by the ASD shall be performed by the ASD.

(2) A charter school authorized by the ASD shall continue to be overseen and monitored by the ASD notwithstanding the subsequent removal of all schools in an LEA from the priority school list; provided, however, in the case of a charter school authorized by the ASD but renewed by the LEA in accordance with this chapter, the LEA becomes the chartering authority and shall be responsible for oversight and monitoring of the charter school.

(3) For accountability purposes under § 49-1-602, the performance of a charter school authorized by the ASD shall not be attributable to the LEA.

(d) Funding for charter schools authorized by the ASD shall be in accordance with § 49-13-112, except that the LEA in which the charter school operates shall pay to the department one hundred percent (100%) of the per student share of local funding and one hundred percent (100%) of any federal funding in the custody of the LEA that is due to the charter school. The department shall withhold from the LEA one hundred percent (100%) of the per student share of state funding that is due to the charter school as well as one hundred percent (100%) of all federal funding in the custody of the department that is due to the charter school. The department shall then allocate and disburse one hundred percent (100%) of these funds to the charter school in accordance with procedures developed by the department.

(e) The department shall determine the amount of the state BEP non-classroom component for capital outlay to be distributed, according to § 49-13-112(c), to a charter school authorized by the ASD. The LEA shall pay to the

department one hundred percent (100%) of the required local match under the BEP for capital outlay as a non-classroom component for distribution to the charter school.

(f) A charter school authorized by the ASD may contract with the LEA in which the school operates for school support services or student support services, including, but not limited to, food services and transportation.

SECTION 4. Tennessee Code Annotated, Section 49-13-105, is amended by deleting the language “LEA” wherever it appears and substituting instead the language “chartering authority”.

SECTION 5. Tennessee Code Annotated, Section 49-13-106(a)(1), is amended by deleting the subdivision in its entirety and substituting instead:

(1) Public charter schools may be formed to provide quality educational options for all students residing within the jurisdiction of the chartering authority; provided; however, that a chartering authority may authorize charters to enroll students residing outside the LEA in which the public charter school is located pursuant to the LEA out-of-district enrollment policy and in compliance with §§ 49-6-3003 and 49-6-403(f).

SECTION 6. Tennessee Code Annotated, Section 49-13-107, is amended by adding the following language as a new subsection:

(e) In reviewing an application, a chartering authority may take into consideration the past and current performance, or lack thereof, of any charter school operated by the sponsor.

SECTION 7. Tennessee Code Annotated, Section 49-13-108(a)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3)

(A) Except as provided in subdivision (a)(3)(B), a denial by the local board of education of an application to establish a public charter school may be appealed by the sponsor, within ten (10) days of the final decision to deny, to the state board of education. The appeal and review process shall be in accordance with this subdivision (a)(3)(A). Within sixty (60) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing attended by the board or its designated representative and held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district or community, the state board shall remand the decision to the local board of education with written instructions for approval of the charter. The grounds upon which the state board of education based a decision to remand the application shall be stated in writing, specifying objective reasons for the decision. The decision of the state board shall be final and not subject to appeal. The LEA, however, shall be the chartering authority.

(B) In any LEA which contains at least one (1) priority school on the current or last preceding priority school list, a sponsor may request an appeal following a denial by the local board of education of an application to establish a public charter school, within ten (10) days of the final decision to deny, to the ASD. The appeal and review process shall be in accordance with this subdivision (a)(3)(B). Within thirty (30) days, the ASD shall notify the sponsor as to whether the ASD will hold an appeal

hearing. The ASD or its superintendent, acting for the ASD, may allow a sponsor to make corrections to its application on appeal, except for the elements of the application required under § 49-13-107(b)(1), (2), (4), (6), (9), (12), (13), (18) and (20). Within sixty (60) days after receipt of the notice of appeal and after reasonable public notice, the ASD, at a public meeting attended by the ASD or its designated representative and held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and make its findings. If the ASD finds that the local board's decision was contrary to the best interests of the pupils, school district or community, the ASD may approve the application for the charter school. The decision of the ASD shall be final and not subject to appeal. The ASD shall be the chartering authority.

SECTION 8. Tennessee Code Annotated, Section 49-13-108, is amended by adding the following language as new subsections:

(d) Except as provided in § 49-13-115, chartering authorities may not approve an application based on conditions or contingencies.

(e) Prior to approving any charter school on appeal to the ASD, the ASD shall consider the financial impact of the charter school on the LEA. The ASD may request additional information from the charter school sponsor and the LEA in regards to such consideration. The ASD shall not approve for operation any charter school which is determined to have a substantial negative fiscal impact on an LEA.

(f) Chartering authorities are encouraged to adopt national authorizing standards for use in reviewing charter school applications. The ASD shall adopt national authorizing standards.

SECTION 9. Tennessee Code Annotated, Section 49-13-110(b), is amended by deleting the punctuation “.” at the end of the second sentence and substituting instead the following language:

; provided, that if the chartering authority is the ASD, then no appeal may be made of the ASD's decision to deny a petition to amend the charter.

SECTION 10. Tennessee Code Annotated, Section 49-13-111(a)(3), is amended by deleting the word “Receive” and substituting instead the language “Except as provided in § 49-13-143(e), receive”.

SECTION 11. Tennessee Code Annotated, Section 49-13-112(b)(3)(C), is amended by deleting the language “LEA” wherever it appears and substituting instead the language “chartering authority”.

SECTION 12. Tennessee Code Annotated, Section 49-13-113, is amended by adding the following language as a new subsection:

(f) A charter school authorized by the ASD may enroll any student in the LEA in which the charter school is located who is in the grades served by the school. However, if a charter school sponsor submits an application with the focus of serving students from a group or groups set forth in § 49-13-106(b)(1)(C), then the school shall give preference in enrollment to students from such group or groups; otherwise the charter school sponsor shall comply with subsection (a). A charter school authorized by the ASD may accept students from outside the LEA as provided in subdivision (b)(2).

(g) The chartering authority shall ensure that the students enrolled in the charter school represent the racial minority groups within the LEA by requiring that the percentage of each racial minority within the charter school reflects the percentage of the racial minorities within the LEA. The charter school shall include in the annual report under § 49-13-120, data of the percentage of each

racial minority in the LEA and the percentage of each racial minority in the charter school.

(h) If the charter school fails to ensure the racial minorities of students in the charter school reflect the racial minorities of students in the LEA, the charter school shall reimburse the LEA for the per pupil amount that will pass to charter schools during the upcoming school year for each underrepresented student in each racial minority.

SECTION 13. Tennessee Code Annotated, Section 49-13-121(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b)

(1) No later than April 1 of the year prior to the year in which the charter expires, the governing body of a public charter school shall submit a renewal application to the LEA, if the LEA is the chartering authority, or to the ASD or the LEA, if the ASD is the chartering authority. On or before the following February 1, the chartering authority to which the renewal application was submitted shall rule by resolution on whether to approve or deny the renewal application. The decision of the chartering authority shall be based on the report and evaluation required under § 49-13-120.

(2) A decision by an LEA to deny a renewal application may be appealed by the governing body, within ten (10) days of the decision to deny, to the state board of education or, if the charter school is located within an LEA which contains at least one (1) priority school on the current or last preceding priority school list, the ASD. If the state board of education directs the chartering authority to approve the renewal of the charter agreement, the public charter school shall continue to operate for



the prescribed period of ten (10) academic years. If the ASD approves the renewal of the charter agreement, the public charter school shall continue to operate for the prescribed period of ten (10) academic years and the ASD shall be the chartering authority. A decision by the board or ASD to deny the renewal of a charter agreement shall be final. No appeal may be taken.

(3) If the school submits its renewal application directly to the ASD pursuant to subdivision (b)(1), then the decision of the ASD on the renewal application is final and may not be appealed.

SECTION 14. Tennessee Code Annotated, Section 49-13-121(d), is amended by deleting the language “LEA” wherever it appears and substituting instead the language “chartering authority”.

SECTION 15. Tennessee Code Annotated, Section 49-13-122(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) Except for revocations or failures to renew based on the violations specified in subdivision (a)(2), a decision of an LEA not to renew or to revoke a charter agreement may be appealed to the state board of education or, if the LEA contains at least one (1) priority school on the current or last preceding priority school list, to the ASD within ten (10) days of the decision.

(2) An appeal to the board shall be conducted according to § 49-13-108(a)(3)(A). The decision of the board is final and may not be appealed.

(3) An appeal to the ASD shall be conducted according to § 49-13-108(a)(3)(B). If the ASD overturns the LEA's decision, then the ASD

shall be the chartering authority for the school. The decision of the ASD is final and may not be appealed.

(4) If the ASD decides not to renew or to revoke a charter agreement for which it is the chartering authority, then the decision of the ASD is final and may not be appealed.

SECTION 16. The state board of education is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 17. Section 16 of this act shall take effect July 1, 2013, the public welfare requiring it. All other sections of this act shall take effect January 1, 2014, the public welfare requiring it, and shall apply to appeals from the denial of applications filed by sponsors for charter schools proposing to open in the 2015-2016 school year and school years thereafter.